HON'BLE SRI JUSTICE R.SUBHASH REDDY

WRIT PETITION NO : 25636 of 2006

Dated 3rd December, 2007

Between

Dudisti Bisai

…Petitioner

and

The Convener ICET-2007, Osmania University,
Hyderabad, and, ors

…Respondents.

THE HON'BLE MR JUSTICE R.SUBHASH REDDY

WRIT PETITION NO : 25636 of 2007

ORDER:

In this Writ Petition, the petitioner has questioned the validity of the order dated 8-10-2007 in proceedings Rc.No.1326/2007 passed by the Sub-Collector, Tekkali, Srikakulam District.

The petitioner claims that he belongs to 'Bentho Oriya' community, which is notified as Scheduled Caste. When he was not allotted admission in Master of Computer Applications course and his application for grant of caste certificate was pending consideration, earlier, the petitioner approached this Court in Writ Petition No. 18055 of 2007. In the said Writ Petition, this Court by order dated 24-8-2007 passed in WPMP.No. 23154 of 2007, directed the respondents for grant of provisional admission into MCA course as per Rule 19 of the

A.P. (SC,ST & BCs) Regulation of Issue of Community Certificates Rules, 1997 framed under A.P. (SC,ST & BCs) Regulation of Issue of Community Certificates Act, 1993, subject to condition that the petitioner furnishes an undertaking that in the event of the competent authority deciding that he does not belong to the Scheduled Tribe, his admission is liable to be cancelled. Subsequently, the Sub-Collector, Tekkali, has passed the order dated 8-10-2007 stating that the petitioner belongs to 'Odiya or Vaddi' caste, but not 'Bentho Oriya' and therefore his request for issuance of Caste Certificate is rejected. However, it is submitted by the learned Counsel for the petitioner that as there is remedy of appeal in the Statute, the petitioner has preferred appeal before the District Collector on 18-10-2007 and the same is pending consideration. It is further submitted that the Sub-Collector, Tekkali has refused to grant caste certificate without conducting any enquiry and without issuing any notice.

Whether the primary authority has refused to grant caste certificate without following the procedure or not is a matter which is seized of before the appellate authority-District Collector. In view of the pendency of the appeal before the District Collector, it is not desirable to record any finding on the community of the petitioner. As much as, pursuant to the interim order of this Court, the petitioner was granted admission into MCA course and now he is pursuing the same, and, further, in view of the pendency of the appeal, I deem it appropriate that the petitioner shall be allowed to continue the said course till the disposal of the appeal filed by him. In that view of the matter, the Writ Petition is disposed of directing the third respondent to dispose of the appeal preferred by the petitioner on 18-10-2007 against the order of the Sub-Collector, dated 8-10-2007, within a

period of three months from the date of receipt of a copy of this order. Till the disposal of the appeal, the respondents shall not take any action for cancellation of his admission into MCA course. However, it is made clear that continuance of the said course by the petitioner is at his risk and he shall not claim any equities in the event of the appeal being decided against him.

Subject to the above direction, the Writ Petition is disposed of at the admission stage. No order as to costs.

JUSTICE R. SUBHASH REDDY

DATE: 3-12-2007
CC by tomorrow
(BO) Msnr.